

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

TDI COMMUNICATIONS, INC.)

DOCKET NO. 01-0415

For a Certificate of Public)
Convenience and Necessity to)
Operate as a)
Non-Facilities-Based Resold)
Telecommunications Services)
Provider.)
_____)

DECISION AND ORDER NO. 19099

Filed Dec. 6, 2001
At 8:00 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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TDI COMMUNICATIONS, INC.) Docket No. 01-0415
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Provider.)
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DECISION AND ORDER

I.

By application filed on October 9, 2001, TDI COMMUNICATIONS, INC. (Applicant), requests a certificate of public convenience and necessity (CPCN) to provide resold telecommunications services within the State of Hawaii (State).

On June 3, 1996, HAR chapter 6-80 took effect. HAR chapter 6-80, among other things, replaces the CPCN with a certificate of authority (COA) for telecommunications carriers, and establishes procedures for requesting and issuing a COA. Accordingly, the commission will treat the application in this docket as a request for a COA under HAR chapter 6-80 and review the application under HAR § 6-80-18.

Copies of the application were served on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate). By position statement filed on November 2, 2001, the Consumer Advocate does not object

to approval of the application provided that Applicant revises certain sections of its tariff.

II.

Applicant, a Delaware company with its principal place of business in New York, New York, is authorized to do business in the State as a foreign corporation. Applicant is presently authorized to provide telecommunications services in one other state, and proposes to offer Message Telephone Service, Wide Area Telephone Service (WATS), WATS-like services, Foreign Exchange Service, private lines, tie lines, access service, and prepaid calling card services.

III.

Upon review of the application, the commission makes the following findings pursuant to HAR § 6-80-18:

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services;

2. Applicant is fit, willing, and able to properly perform the telecommunications services proposed and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

3. Applicant's proposed telecommunications services are in the public interest.

Accordingly, we conclude that Applicant should be granted a COA to operate as a reseller of telecommunications services.

Additionally, based on our review of the proposed tariff, we also conclude that Applicant should revise its proposed tariff as follows:

1. Amend all provisions related to Applicant's exemption from or limitation of liability (including indemnification) to include the proviso that in the event of a conflict with State law, State law will prevail.

2. Revise the late payment charge noted in section 2.14 on original page 13 so that the late payment fee charged customers on any past due balance is not more than one per cent per month.

3. Revise section 2.5 on original page 11 to include the provision that, pursuant to HAR § 6-80-103(b), if service is interrupted by a natural or other disaster beyond the control of the telecommunications carrier, the carrier shall make adjustments and refunds to its affected customers if service is not restored within 48 hours.

4. Amend section 2.6 on original page 12, so that in accordance with HAR § 6-80-106, Applicant may deny or discontinue service to a customer without the customer's permission, and with prior notice, only for nonpayment of a past due bill **not in dispute**. In addition, section 2.6.2 is not in accordance with HAR § 6-80-106, and should be deleted.

5. Revise section 2.19 on original page 14. In accordance with HAR § 6-80-106(c), Applicant must give a customer not less than five days to respond to a notice of Applicant's intention to discontinue service, and if the notice is mailed to a customer, an additional two days for the customer to respond. Also, please assure that Applicant's policy regarding the denial or discontinuation of a customer's service is in full compliance with the conditions set forth in HAR § 6-80-106.

6. Correct section 3.9 on original page 20. The name of the building in which the commission is located is Kekuanaoa. In addition, in accordance with HAR § 6-80-107(4), include the commission's telephone number for customers who may wish to contact the commission with an unresolved complaint against Applicant.

IV.

THE COMMISSION ORDERS:

1. Applicant is granted a COA to operate as a reseller of telecommunications services in the State.

2. As a holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR chapters 6-80 and 6-81, any other applicable State laws and commission rules, and any orders that the commission may issue from time to time.

3. Applicant shall file its tariff in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariff shall comply with the provisions of HAR chapter 6-80. In the event of a conflict

between any provision of a tariff and State law, State law shall prevail.

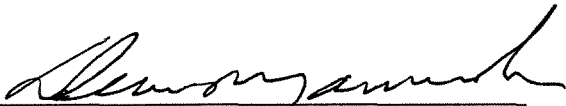
4. Applicant shall conform its proposed tariff to the provisions of HAR chapter 6-80 by, among other things, incorporating the tariff revisions set forth in section III of this decision and order into the original tariff. An original and eight copies of the tariff, complete with the revised pages, shall be delivered to the commission, and two copies of the same shall be served on the Consumer Advocate.


5. Within 30 days of the date of this decision and order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. Checks shall be made payable to the Hawaii Public Utilities Commission, at 465 South King Street, Room 103, Honolulu, Hawaii, 96813.

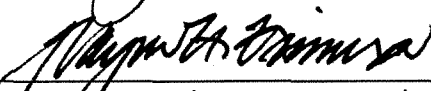
6. In accordance with HAR § 6-80-39, Applicant shall not offer, initiate, or provide any telecommunications services within the State, at wholesale or retail, until it complies with the requirements set forth in this decision and order.

DONE at Honolulu, Hawaii this 6th day of December,
2001.

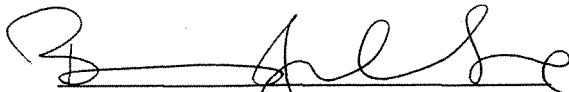
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Dennis R. Yamada, Chairman

By 
Gregory G.Y. Lai, Commissioner

By 
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

01-0415.eh


CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19099 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

EYAL YECHEZKELL, PRESIDENT
TDI COMMUNICATIONS, INC.
322 East 50th Street
New York, NY 10022

DAVID O. KLEIN, COO
TELECOM CERTIFICATION & FILING, INC.
485 Madison Avenue, 15th Floor
New York, NY 10022-5803



Catherine Sakato

DATED: December 6, 2001